रजिस्ट्री सं. डी.एल.-33004/97 REGISTERED NO. DL-33004/97

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 2
PART II—Section 2
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं॰ 36] नई दिल्ली, वृहस्पतिवार, अगस्त, 7, 1997 / श्रावण 16, 1919
No. 36] NEW DELHI, THURSDAY, AUGUST, 7, 1997 / Shravana 16, 1919

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MoS 871/98

LOK SABHA

The following Bill was introduced in Lok Sabha on the 7th August 1997:—

BILL NO. 114 OF 1997

A Bill further to amend the High Court Judges (Conditions of Service) Act, 1954 and the Supreme Court Judges (Conditions of Service) Act, 1958.

BE it enacted by Parliament in Forty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. This Act may be called the High Court and Supreme Court Judges (Conditions of Service) Amendment Act, 1997. Short title.

CHAPTER II

AMENDMENT OF THE HIGH COURT JUDGES (CONDITIONS OF SERVICE) ACT, 1954

2. In section 4 of the High Court Judges (Conditions of Service) Act, 1954, in sub-section (2), in clause (*a*), for sub-clause (*iii*), the following sub-clause shall be substituted, namely:— Amendment of section 4 of Act 28 of 1954.

"(*iii*) where the Judge had, prior to his appointment as such, held any pensionable post under the Union or a State, the period of leave earned by him in the said post:

Provided that nothing in this sub-clause shall entitle a Judge in his entire service, including the period of service rendered in a pensionable post under the Union or a State or on re-employment, if any, to claim the cash equivalent of leave salary on his retirement in respect of the period of earned leave at his credit, in excess of the maximum period prescribed for encashment of such leave under the All India Service (Leave) Rules, 1955; and".

CHAPTER III

AMENDMENT OF THE SUPREME COURT JUDGES (CONDITIONS OF SERVICE) ACT, 1958

Amendment of section 4 of Act 41 of 1958.

3. In section 4 of the Supreme Court Judges (Conditions of Service) Act, 1958, in sub-section (*2*), in clause (*a*), for sub-clause (*iii*), the following sub-clause shall be substituted, namely:—

"(*iii*) where the Judge had, prior to his appointment as such, held any pensionable post under the Union or a State, the period of leave earned by him in the said post:

Provided that nothing in this sub-clause shall entitle a Judge in his entire service, including the period of service rendered either as a Judge of a High Court or in a pensionable post under the Union or a State or on re-employment, if any, to claim the cash equivalent of leave salary on his retirement in respect of the period of earned leave at his credit, in excess of the maximum period prescribed for encashment of such leave under the All India Service (Leave) Rules, 1955; and".

STATEMENT OF OBJECTS AND REASONS

When an officer of the State Judicial Service is appointed as a Judge of the High Court, his leave account is regulated under the provisions of section 4(2) (a) (iii) of the High Court Judges (Conditions of Service) Act, 1954. It entitles him to carry-forward only the leave earned to the extent of 240 days. He is, however, not entitled to carry-forward the half pay leave in his leave account in the State Judicial Service. Representations have been received from certain Judges, who have requested for a provision in the High Court Judges (Conditions of Service) Act, 1954, to enable them to avail this benefit of carry-forward of half pay leave.

2. By virtue of provisions of rule 2 of the High Court Judges Rules, 1956, read with All India Service (Leave) Rules, 1955, the Judges of High Courts should be eligible to the carry-forward of half pay leave while elevated to the bench. But they cannot avail themselves of this benefit in the absence of a specific provision in this regard in the High Court Judges (Conditions of Service) Act; 1954. Therefore, it is proposed to make a suitable amendment to the Act of 1954, to provide for the same.

3. The Registry of Supreme Court also stated that the restriction of carry-forward of 240 days leave on full allowances, on elevation to the Supreme Court, has put a Judge of the Supreme Court in an anomalous situation on the grounds that in no service a person elevated to higher position has to forego any leave credited to his leave account and that though he is elevated to a higher constitutional post as a Judge of the Supreme Court, he is put to a disadvantage as he has to forego leave in excess of 240 days. The Registry has, therefore, requested for deleting the restriction of 240 days for carry-forward of leave on full allowances, when a Judge of High Court is elevated to the Supreme Court. The request of the Registry of the Supreme Court is proposed to be accepted by deleting the restriction of 240 days under section 4(2) (*a*) (*iii*) of the Supreme Court Judges (Conditions of Service) Act, 1958.

4. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 22nd July, 1997.

RAMAKANT D. KHALAP.

FINANCIAL MEMORANDUM

Clauses 2 and 3 of the Bill seek to amend section 4(2) (a)(iii) of the High Court Judges (Conditions of Service) Act, 1954 and the Supreme Court Judges (Conditions of Service) Act, 1958, so as to remove the ceiling on carry-forward of leave in respect of the Judges of every High Court and the Supreme Court. The proposal does not involve any substantial financial implications as there already exists a ceiling in respect of aggregate amount of leave which may be availed of by a Judge. Further, a Judge may encash the leave available in his leave account at the time of his retirement. Even in that case also, he is allowed encashment of leave on full allowances as well as on half allowances in terms of the provisions of rule 20-A of the All-India Service (Leave) Rules, 1955. However, it is not possible to estimate this expenditure at this stage.

2. The Bill does not involve any other expenditure of either recurring or non-recurring nature.

S. GOPALAN,
Secretary-General.

PRINTED BY THE MANAGER GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI—1997.